**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

XPAYS, INC.	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. 3:12-CV-00928
	)	
DOES 1-34.	)	*JURY TRIAL DEMANDED*
	)	
Defendants.	)	
_____	)	

NOTICE

At the hearing on August 30, 2012, the Court asked Plaintiff's counsel to address three

topics and provide a Proposed Protective Order to define the scope and parameters of the

requested expedited discovery. The three topics are addressed below and the Proposed Protective

Order is attached hereto.

1. Did plaintiff's investigator upload the film to any of the Does in this action?

    Answer: No. Plaintiff's investigator only downloaded the work from others. It did not
    further disseminate the work.

2. How does the geolocation technology utilized by plaintiff's investigator work?

    Answer: The geolocation application which plaintiff's investigator utilized is called
    GeoIP. This product is a made by a company called MaxMind. A description of how
    the GeoIP product works is given on MaxMind's website at:
    http://www.maxmind.com/app/ip-locate.
    Plaintiff's investigator used the "GeoIP Region Database," which allowed plaintiff to
    determine the approximate location of a Defendant Doe based on that Doe's IP
    address. The product features are described as follows:

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Product Features - GeoIP Region Database

- Updated weekly
- Site license allows use on all machines within purchasing organization
- 99.8% accurate on a country level and 90% accurate on a state level
- Includes the following fields: (Technical Details)
  - Country Code
  - Region (US and Canada only)
- Open Source APIs are available for most popular languages
- Automated updates are available

Available at: http://www.maxmind.com/app/region/.

3. Do the Does perform an affirmative task to rejoin the swarm?

Answer: When a user's BitTorrent client (i.e., the BitTorrent software) is running, it both downloads and uploads the work until the work is fully downloaded. At that point, the client still continues to upload the work whenever the client program is running. Many Does never exit his or her BitTorrent client during the life of a swarm. If a user does exit his or her BitTorrent client during a swarm, the client will pause distribution. However, once the user runs the BitTorrent client again (either affirmatively, or as part of the startup process), then the user's computer will be accessible by others to download BitTorrent materials from the user's computer (and the user's client will resume distribution).
Also, there are modified BitTorrent clients available that do not upload. These modified BitTorrent clients provide an alternative source to BitTorrent users who do not wish to participate in uploading.

Respectfully submitted,
PLAINTIFF XPAYS, INC.

By its attorneys,
SIMMONS BROWDER GIANARIS
    ANGELIDES & BARNERD LLC

Dated: September 4, 2012   By: */s/ Paul A. Lesko*
                                                Paul A. Lesko – IL Bar No. 6288806
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<u>CERTIFICATE OF SERVICE</u>

I hereby certify that on September 4, 2012, I electronically filed the foregoing document

via the Court's ECF, electronic email system, upon all of record:

/s/ Paul A. Lesko_____